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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/694,582
Filing Date: October 27, 2003
Appellant(s): KLEIN ET AL.

Gary Jarosik
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/23/07 appealing from the Office action mailed 6/14/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

Claims 1-7, 10-12, 14, 17-20, 23-28, 30-36, 38, 41-45 are rejected under 35 U.S.C 102(b) as being anticipated by Van Ryzin US Patent 6127941..

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,507,306	Griesau et al	01-2003
6,127,941	Van Ryzin	10-2000
5,554,980	Hashimoto et al.	10-1996
5227780	Tigwell	07-1993
6636281	Lin et al.	10-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10-12, 14, 17-20, 23-28, 30-36, 38, 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Ryzin US Patent 6,127,941.

Regarding claim 1, Van Ryzin teaches a controlling device (100) comprising:
programming control by microprocessor (112) for allowing one of the plurality of device mode states (TV, CD, stereo) by using the graphical interface to select the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49); and programming for allowing one of a subset of the plurality of device mode states to be selected by allowing the user to select sub menus to exert control such as changing the volume or channel of the device(col. 5 lines 44-56). Van Ryzin teaches programming responsive to receipt of a second input for selecting as a function of the plurality of device mode states by selecting a function pertaining to the device mode state the control device is placed in (col. 5 lines 31-42) for example when the control device is in the TV mode, the user is allow to select function to control channels or volume.

Regarding claim 2, Van Ryzin teaches the programming for allowing one of a subset of the plurality of device mode states to be selected is responsive to actuation of a device mode state toggle key (col. 5 lines 21-24).

Regarding claim 3, Van Ryzin teaches the subset of the plurality of device mode states are maintained in table stored in a memory of the controlling device (col. 6 lines 55-65).

Regarding claims 4-7, Van Ryzin teaches the subset of the plurality of device mode states which is the state of the remote control in which the user is allow to select sub menus to exert control such as changing the volume or channel of the device represented by the device mode state of the remote control (col. 3 lines 42-49). Van Ryzin teaches first input comprising selecting the device mode state (col. 5 lines 21-25) and also teaches making key selection from the control menu based on the device mode state of the remote control device (col. 5 lines 31-42) for example when the control device is in the TV mode, the user is allow to select function to control channels or volume.

Regarding claim 10, Van Ryzin teaches the device mode state are indicated by the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49).

Regarding claims 11-12, and 14, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is used to select the different mode states (col. 3 lines 26-30).

Regarding claims 17-20, Van Ryzin teaches the programming for allowing one of the plurality of device mode states to be selected is responsive to actuation of one of a plurality of device mode keys each of which corresponds to one of the plurality of device mode states and wherein the indicia is associated with the plurality of device mode keys

(col. 3 lines 42-49). The device mode keys for selecting the device to be controlled (figure 1A) are considered toggle switches because it enables the remote control to toggle from one device state to another.

Regarding claims 23-24, Van Ryzin teaches the actuation of the device mode state by selecting the appropriate icon representing the device (TV, CD, stereo) to be controlled and these icon representing the device modes are considers toggle keys because they causes the remote control to be placed in one of the device mode states (col. 5 lines 44-56).

Regarding claim 25, Van Ryzin teaches a controlling device (100) comprising:
programming for allowing one of the plurality of device mode states by using the graphical interface to select the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49); and programming for allowing one of a subset of the plurality of device mode states to be selected by allowing the user to select sub menus to exert control such as changing the volume or channel of the device(col. 5 lines 44-56).

Van Ryzin teaches a microprocessor 112 for controlling the operation of the remote control and the program for controlling the operation of the remote control in stored in the readable media provided by cartridge 110 or memory 114 (col. 5 lines 20-30). Van Ryzin teaches programming responsive to receipt of a second input for selecting as a function of the plurality of device mode states by selecting a function pertaining to the device mode state the control device is placed in (col. 5 lines 31-42).

Regarding claims 26 and 28, 30-31, Van Ryzin teaches the actuation of the device mode state by selecting the appropriate icon representing the device (TV, CD, stereo) to be controlled and these icon representing the device modes are considers toggle keys because they causes the remote control to be placed in one of the device mode states (col. 5 lines 44-56).

Regarding claim 27, Van Ryzin teaches storing the instruction for the device mode state in a memory 114 (col. 5 lines 20-30).

Regarding claims 32-34, Van Ryzin teaches selecting a subset of the plurality of devices in a define order by moving the cursor in a defined order (e.g. left to right) (col. 3 lines 37-54).

Regarding claims 35-36 and 38, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is used to select the different mode states (col. 3 lines 26-30).

Regarding claims 41-45, Van Ryzin teaches the programming for allowing one of the plurality of device mode states to be selected is responsive to actuation of one of a plurality of device mode keys each of which corresponds to one of the plurality of device mode states and wherein the indicia is associated with the plurality of device mode keys (col. 3 lines 42-49). The device mode keys for selecting the device to be controlled (figure 1A) are considered toggle switches because it enables the remote control to toggle from one device state to another.

Claims 46-48 and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin

et al. US Patent 6633281.

Regarding claims 46 and 50, Lin et al. teaches receiving input for causing the controlling device to change from a first device mode state selected from the plurality of device mode states to a second device mode state selected from the plurality of device mode states(col. 4 lines 28-42). Lin et al. teaches a memory for storing user defined control data (col. 5 lines 33-35) and teaches a macro key for executing a series of function (col. 4 lines 60-65, col. 2 lines 10-22). The stored macro data is therefore used with the device mode toggle switch to place the control device in a desired device mode.

Regarding claims 47-48, Lin et al. teaches the activation of a device mode toggle key (col. 4 lines 28-42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Lin et al. US Patent 6633281.

Regarding claims 8-9, Van Ryzin teaches programming for selecting one of the plurality of device mode states by using the graphical interface to select the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49) but is silent on teaching the receipt of a second input which causes each of the device mode state within a subset of the plurality of device mode states to be selected in a predefined order. Lin et al. in an art related remote control invention teaches the use of a single button to select a plurality of device mode state and the predefined order is selected by the user (col. 2 lines 10-20, col. 5 lines 2-10).

It would have been obvious to one of ordinary skill in the art to modify the remote control of Van Ryzin as disclosed by Lin et al. because this simplifies the process of selecting a plurality of functions generally initiated by pressing a plurality of keys by a single key to execute a series of functions resulting in the control of various devices.

Claims 13 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Tigwell US Patent 5227780.

Regarding claims 13 and 37, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is used to select the different mode states (col. 3 lines 26-30) but is silent on teaching the use of illuminated LED to indicate the selected mode. Tigwell in an art related remote control teaches the use of illuminated LEDs to show the selected device (col. 4 lines 16-20).

It would have been obvious to one of ordinary skill in the art to modify the remote

control of Van Ryzin as disclosed by Tigwell because illuminating the LED to show the selected device serves to confirm the user selection and renders the remote control more user friendly.

Claims 15-16 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Hashimoto et al. US Patent 5,554,980.

Regarding claim 15-16, and 39-40 Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is illuminated when selected (col. 3 lines 26-30) but is silent on teaching presenting an indicia, which is a sound or vibration. Hashimoto et al. teaches a remote control producing a sound when a particular switching mode is selected (col. 6 lines 20-24) and also generating a vibration when a particular switching mode is selected (col. 6 lines 34-39).

It would have been obvious to one of ordinary skill in the art to modify the system of Van Ryzin as disclosed by Hashimoto et al. because sound and vibration generated based on the mode selected provide a readily recognizable indication of the user's selection.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Griesau et al. US Patent 6,507,306.

Regarding claims 21-22, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) but is silent on teaching the toggle key is located adjacent the menu navigation key and the channel function keys. Griesau et al. in an

art related remote control system teaches the toggle key is located adjacent the menu navigation key and the channel function keys (figure 1).

It would have been obvious to one of ordinary skill in the art to modify the system of Van Ryzin as disclosed by Griesau et al. because locating the toggle key adjacent to the menu and channel key provides for the convenient operation of the remote control.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. US Patent 6633281 in view of Tigwell US Patent 5227780.

Regarding claim 49, Lin et al. teaches the plurality of device mode states () that is used to select the different mode states (col. 4 lines 28-42) but is silent on teaching the use of illuminated LED to indicate the selected mode. Tigwell in an art related remote control teaches the use of illuminated LEDs to show the selected device (col. 4 lines 16-20).

It would have been obvious to one of ordinary skill in the art to modify the remote control of Lin et al. as disclosed by Tigwell because illuminating the LED to show the selected device serves to confirm the user selection and renders the remote control more user friendly.

(10) Response to Argument

Appellant argues on pages 5-9 that the reference of Van Ryzin has no relevance or does not equate to the controlling device as claimed. It is the examiner's position that Van Ryzin teaches placing the controlling device in a particular device mode state by using the graphical interface to select the appropriate device mode state (TV, Stereo, CD) representing the device to be controlled (col. 4 lines 24-39, col. 3 lines 42-49). The programming to be responsive to receipt of a second input for selecting as a function of the device mode states by selecting a

function pertaining to the device mode state the control device is placed in is further evidenced by allowing the user to select a function to be control by selecting the channel or changing the volume of the TV when the control device is in the TV mode (col. 5 lines 31-42). It is further the examiner's position that claim 1 includes alternative language of programming responsive to receipt of a second input for selecting as a function of at least one of the plurality of device mode state the controlling device is in at the time the second input was received and one of the plurality of device mode states the device was placed into a last time the second input was received. The second input therefore needs only to be responsive to the state the device is in at the time the second input was received or the state the device was placed at the time the second input was received.

Appellant argues on pages 8-9 that the references of Van Ryzin and Lin discloses nothing more than a remote control having dedicated device mode keys. It is the examiner's position that a remote control having dedicated device mode keys reads on the limitations as claimed.

Appellant argues on page 10 that the reference of Lin fails to teach the control device responding to an input use to change a remote control from a first device mode to a second device mode and storing data indicative of the first mode state. It is the examiner's position that Lin teaches receiving an input from a macro that cause the control device to change from a first device mode to a second device mode (col. 4 lines 28-42). Lin teaches a memory for storing user defined control data (col. 5 lines 33-35) and teaches a macro key for executing a series of functions (col. col. 4 lines 60-65, col. 2 lines 10-22). The toggle switch provided by the macro key is used to place the control device in a desired mode state based on the stored control data.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Vernal U Brown/
Examiner, Art Unit 2612

Conferees:

/Brian A Zimmerman/
Supervisory Patent Examiner, Art Unit 2612

/Daniel Wu/
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